

## Domestic Violence – Permanent Final Protective Orders

### *Senate Bill 334/House Bill 309*

Under current law, a permanent final protective order can only be granted if all three of the following are true: 1) the petitioner was previously granted a final protective order against the respondent; 2) the respondent was convicted of one of the listed crimes (see list below); and 3) the respondent served at least 5 years for the conviction. As a result of these conditions, Maryland's current law is both restrictive and limits the relief available for victims of domestic abuse. Senate Bill 334/House Bill 309: *Family Law - Domestic Violence – Permanent Final Protective Orders* aims to protect victims by adding second degree assault to the list of crimes and requiring that the respondent be sentenced to 5 years in prison in order for the victim to obtain a permanent final protective order.

#### What is Senate Bill 334/House Bill 309?

This bill provides greater relief to victims of domestic violence by requiring the court to issue a permanent final protective order against an individual who is convicted and sentenced to serve, instead of who served, a term of imprisonment of at least 5 years for certain acts of abuse. In addition, this bill adds the crime of second degree assault to the list of crimes, that makes a person eligible for a permanent final protective order.

#### Why is this law important?

- Although many respondents are sentenced to 5 or more years, they are often released before serving 5 years. As a result, victims are unable to obtain a permanent final protective order because they cannot meet the statutory requirements.
- Additionally, as depicted by the list of violent crimes, the current statute does not include second degree assault as an eligible conviction. Second degree assault is a common crime of domestic violence and as such, victims of second degree assault should be entitled to relief under this statute in cases where the respondent has been sentenced to at least 5 years.

#### Eligibility for Permanent Final Protective Order

##### Eligible Convictions

Attempted First Degree Murder

Attempted Second Degree Murder

First Degree Assault

Second Degree Assault

(would be added to statute by SB 334/HB 309)

First Degree Rape

Second Degree Rape

First Degree Sex Offense

Second Degree Sex Offense

Attempted First Degree Rape

Attempted Second Degree Rape

Attempted First Degree Sex Offense

Attempted Second Degree Sex Offense

- According to the Maryland State's Attorneys Association, the majority of domestic violence cases involve second degree assault.
- 94% of domestic violence crimes reported to the police are charged as assault.<sup>1</sup>
- Circuit Court data shows that defendants convicted of second degree assault, on average, are sentenced to 5 years, but are actually given, on average, an unsuspended sentence of 1.39 years.<sup>2</sup>

<sup>1</sup>Uniform Crime Report, 2012

<sup>2</sup>Maryland State Commission on Criminal Sentencing Policy, 2012

#### What is a Permanent Final Protective Order?

In Maryland, there are three types of protective orders: interim, temporary, and final. Generally, a final protective order lasts 1 year and in some cases may last for 2. At the end of 1 or 2 years, the petitioner is required to go back to court to request an extension and face his or her abuser.

In 2008, the General Assembly passed and Governor O'Malley signed SB 383/HB 182, a law that expanded relief for victims of domestic violence, in certain circumstances, by allowing the petitioner to ask the court for a permanent final protective order. ***Permanent final protective orders last forever and do not require the victim to return to court to request an extension.***